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April 28, 2017

Via ECF

The Honorable Robert F. Kelly
United States District Judge
United States District Court for the Eastern District of
Pennsylvania
James A. Byrne U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Re: Eddystone Rail Co., LLC v. Bridger Logistics, LLC, et al.
No. 2:17-cv-00495-RK

Dear Judge Kelly:

We write to clarify an error in a citation.

Our client, Eddystone Rail Company, recently filed a Motion to Strike Defendants' Reply Briefs (Doc. No. 45). In the accompanying Memorandum of Law, we erroneously attributed a memorandum order to your Honor when it had actually been issued by Judge James M. Kelly. (Doc. No. 45-2 at 1 (citing United States v. Sokolow, No. CRIM. 93-394, 1999 WL 275000 (E.D. Pa. May 5, 1999)). We were working from the Westlaw version of this order, which attributed the order to Your Honor. (See Attachment 1) Nonetheless, we believe that Judge James Kelly did correctly state the rule in this Court.

We apologize for any confusion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H E Hockeimer Jr".

Henry E. Hockeimer, Jr.


HEH/jaw
Attachment

Attachment 1

U.S. v. Sokolow

United States District Court, E.D. Pennsylvania May 5, 1999 Not Reported in F.Supp.2d 1999 WL 275000 (Approx. 2 pages)

Document

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1999 WL 275000

Only the Westlaw citation is currently available.

United States District Court, E.D. Pennsylvania.

UNITED STATES of America,

v.

Craig B. SOKOLOW.

No. CRIM. 93-394.

May 5, 1999.

Robert F. Kelly[See Full Profile](#)**MEMORANDUM ORDER**

KELLY,

*1 Craig B. Sokolow ("Sokolow") has filed a document entitled "Craig Sokolow's Response to Government's Response for Reconsideration of Memorandum Order dated January 26, 1999 and to the Government's Response to a Request to Proceed in Forma Pauperis." In essence, Sokolow has filed a reply brief without seeking leave of Court.

Sokolow is appealing denial of his Motion to Vacate, Set Aside or Correct Sentence, which was filed pursuant to 28 U.S.C. § 2255. On January 26, 1999, the Court denied Sokolow's Motion for Leave to Appeal in Forma Pauperis. Sokolow subsequently filed a Motion for Reconsideration which the Court granted in part and denied in part on April 22, 1999. On April 27, 1999, Sokolow filed the instant Reply Brief.

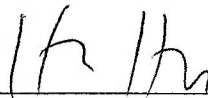
If a procedure is not the subject of a specific § 2255 Rule, the Court may apply the Federal Rules of Criminal Procedure or the Federal Rules of Civil Procedure, whichever it deems is most appropriate. Rule 12, Rules Governing § 2255 Proceedings. The Court concludes that the Federal Rules of Civil Procedure are applicable to Sokolow's Motion for Leave to Appeal in Forma Pauperis. There is no provision for a movant to file a reply brief under the Federal Rules of Civil Procedure. Rule 7.1(c) of the Local Rules of Civil Procedure of the Eastern District of Pennsylvania provides for a brief in support and a brief in opposition to any motion. A movant must seek leave to file a reply brief to address matters not raised in the initial motion. Sokolow has not availed himself of seeking leave to file the present reply brief.¹ Consequently, the Court could view the instant brief as improvidently filed and ignore it. Further, there is no indication that Sokolow filed a copy of his Reply Brief with the Government, which also suggests that ignoring the Reply Brief is appropriate. Out of an abundance of caution, the Court has reviewed Sokolow's Reply Brief and finds that rather than addressing new matter raised in the Government's Response, it merely reargues matters that Sokolow has already placed before the Court. Therefore, the Court shall DISMISS the Reply Brief.

All Citations

CERTIFICATE OF SERVICE

I, Henry E. Hockeimer, Jr., Esquire, hereby certify that I caused Plaintiff Eddystone Rail Company's letter and attachment regarding its Motion to Strike Defendants' Reply Briefs (Doc. No. 45) to be filed and served to all counsel of record via the Court's ECF system on April 28, 2017.

Dated: April 28, 2017



Henry E. Hockeimer, Jr.